

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Vernon Wayne Steele,
Petitioner-Appellant.

v.

Marion County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-63-0053
Parcel No. 23251-000-00

On January 13, 2012, the above captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board under Iowa Code sections 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant, Vernon Wayne Steele, was self-represented and requested a written consideration. The Marion County Board of Review designated Attorney Christopher R. Pose of Lillis O'Malley Olson Manning Pose and Van Dike, LLP, Des Moines, Iowa, as its representative. The Appeal Board having reviewed the entire record, and being fully advised, finds:

Findings of Fact

Vernon Wayne Steele, owner of a rural-residential property located at 892 126th Place, Knoxville, Iowa, appealed from the Marion County Board of Review regarding his 2011 property assessment. The January 1, 2011, assessment was allocated as follows: \$48,040 in land value and \$204,920 in improvement value for a total assessment of \$252,960.

The subject property is a one-story frame, single-family residence built in 1995 and very good condition. The improvements include 1864 square feet of above-grade finish and a full, unfinished basement. Additionally, the subject features a 672 square-foot attached garage; a 288 square-foot open porch; a 320 square-foot three season porch; a 320 square-foot concrete patio; and a 440 square-foot detached garage built in 2003. The site is 8.17 acres.

Steele protested his assessment to the Marion County Board of Review. He contended there is an error in the assessment under Iowa Code section 441.21(1)(d). His written statement was that the "property was over valued and does not represent 'market' value per November 2010 appraisal." Essentially, Steele asserted his property is assessed for more than the value authorized by law under section 441.21(1)(b). He also claimed there has been a change in the value since the last assessment under sections 441.37(1) and 441.35. Again, his statement essentially asserted the subject property is over-assessed. Additionally, we note, in a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006).

The Board of Review granted the protest, in part, by changing the condition from "very good" to "normal," which resulted in a lower total valuation of \$246,870, allocated at \$48,040 to the land and \$198,830 to the improvements.

Steele then appealed to this Board. He reasserted his claim of over assessment and contends the property's actual value is no more than \$235,000. Steele also asserts his property is misclassified under section 441.37(1)(d), claiming it should be classified as agricultural realty. In a July 26, 2011, letter to this Board Steel states that he did not "specifically mention classification;" however, he felt he had addressed the issue when stating his land was overvalued. In a brief it filed, the Board of Review asserts a classification claim was not raised before it. Additionally, in a February 16, 2012, letter to this Board, Marion County Assessor Drew Sanders noted classification was not an issue on Steele's petition to the Board of Review. There is nothing in the record to indicate this claim was sufficiently raised before the Board of Review. This Board can only consider grounds that were raised before the Board of Review. Therefore, we will only consider Steele's market value claim.

Steele provided the signature page of the certification from an appraisal report as evidence that the property is over-assessed. This page was the only one initially provided; however, at our request, Steele supplied the full appraisal (except page 5, which we believe is a stock certification page).

We note it appears this appraisal was not previously provided to the Board of Review; or if it was, only the signature page was given to it.¹ In his July 26 letter to this Board, Steele stated he was unaware that he had needed to provide the actual appraisal to the Board of Review. The Board of Review minutes, as well as, a letter from Sanders, mention that Steele referred to an appraisal at that hearing noting the name and address of the appraiser, as well as the appraised value of \$235,000. Regardless of when the Board of Review received the single page of the appraisal, it was notified that one existed at its hearing. There is no evidence in the record the Board requested a full copy of this appraisal at any time. But it would seem prudent for the Board to have done so for consideration in its deliberations.

Other than the appraisal, Steele offered no additional evidence of comparable sales to support his assertion that his property is assessed for more than authorized by law.

Steele's appraisal was completed by Rhonda Chiles of Steenhock Appraisal, Inc., Pella, Iowa. The report was signed on November 23, 2010 with an effective date of November 22, 2010. The appraised value was \$235,000.

Chiles developed the cost approach and the sales comparison approach to value. The cost approach conclusion was \$252,340. Chiles gave minimal consideration to the cost approach due to the age of the improvements.

In her sales comparison approach, Chiles used four properties that sold between January and October 2010. The unadjusted sales prices ranged from \$212,500 to \$312,000. We note that

¹ It is unknown if the Board of Review received that single page at their hearing or as part of Steele's appeal to this Board. Regardless of when the Board of Review actually received this single page documentation, we agree the single page would have been insufficient for the Board of Review to have considered it.

excluding the highest sale (Sale 4), the range of the three remaining sales was much smaller at \$212,500 to \$239,900 unadjusted. Chiles states in her report that Sale 4, located at 1621 Highway T-15, was included “to support upper range of value. More upgrades in quality and lower level finish. Newer built and superior condition.” With no other explanation, we assume this sale was included to demonstrate the upper end of the market in Chiles’ opinion. Additionally, because the lower end of the overall value range was selected, it would appear that she gave this sale minimal consideration. We also note this sale required the highest net percentage of adjustments, including both a quality and condition adjustment, which none of the other sales required. As such, we do not consider it to be the best comparable of those submitted by Chiles.

All four sales are one-story homes similar to the subject and were between five and thirteen years of age, compared to the subject’s age of fifteen years. After adjustments for differences in site size, living area, and other amenities, Chiles’ adjusted value ranged from \$226,800 to \$256,600. Again, removing the outlier, the range dropped to \$226,800 to \$239,300. From the overall range, and *with minimal explanation*, Chiles opined the total market value of the subject property was \$235,000.

Additionally, we note Chiles did not explain the subject’s location or close proximity to Lake Red Rock. It is our belief the Lake would offer appeal to the area and may likely be part of a buyer’s decision making process as lakes generally add appeal. It would have seemed prudent for Chiles to explain what, if any, impact this local attraction may have on value of properties in the area. We also note that of the comparables considered, there are none located closer to Lake Red Rock than the subject.

The Board of Review provided a two-page response to the appraisal. It states the appraisal was not completed for ad valorem tax purposes, but rather was completed for mortgage finance. The implication seems to suggest that the appraisal is somehow biased because it was completed for mortgage financing. We believe this is unfounded. Because an appraisal is completed for mortgage

financing purposes does not automatically create issues with its credibility for establishing the market value of the property.

In the response, Sanders also indicates he does not believe Sale 2 in the appraisal is comparable to the subject property. In Sander's opinion, this property is not comparable because it is situated on less than an acre and within a subdivision that is platted similar to a "regular town block." We do note that Chiles made an \$18,500 site adjustment; however, this adjustment appears to simply reflect differences in site size. We do not know if Chiles considered Sale 2's location in the subdivision. Nor do we know if this comparable has access to public utilities such as gas/water unlike the subject property that receives the services from private sources. Because Chiles did not provide rationale for this adjustment, we agree with the Board of Review and question its actual comparability to the subject.

Chiles' remaining three sales are all located within Jasper County. The Board of Review relied on a computer generated program to run a sales analysis of these three properties and concluded the following adjusted values compared to Chiles's report.

Comparable Address	BOR computer Value	Appraisal Value
Comp 1 - 1301 163rd Place	\$228,686	\$226,800
Comp 3 - 882 24th Place	\$256,016	\$239,300
Comp 4 - 1621 Hwy T15	\$267,990	\$256,600

Sanders indicated the primary areas of difference between the Board of Review's position and the appraisal is the land value. An aerial view of the subject property site clearly indicates proximity to at least a "finger" of Lake Red Rock. Additionally, it appears the Elk Rock State Park is located a very near the subject property. It would seem logical that properties with views or close proximities to lake areas, as well as, proximity to public park areas could have greater market value than properties that are not similarly situated. Chiles offered no explanation of the subject's proximity to these local amenities, and we consider this a large deficiency in her report.

Sanders asserted previous land transfers support his opinion the subject site has greater value due to its location. He noted Sale 3's site was purchased in 1995 for \$14,000, compared to the subject site being purchased in 1994 for \$29,000. Today, the respective sites have assessed values of roughly \$30,700 and \$48,000. However, it appears that the subject land sale in 1994 was on contract, which may have influenced the sales price. We note that Chiles did not make any adjustments for site or location between Sale 3 and the subject. We question why there wouldn't have been an adjustment, or at least an explanation of the differences in proximity to the lake and park.

We previously noted we question Sale 4's comparability due to the sale price being an outlier. Additionally, we find Sale 2 is also questionable because of its location and Chiles' limited explanation regarding the adjustment she applied to it. We find Chiles' report generally lacks explanation.

In the certified record is another sales analysis done by the Assessor's Office that the Board of Review considered at its hearing. The Board of Review considered this information when making the decision to lower the subject's assessment. According to a July 2011, letter to this Board, Sanders indicated the analysis consisted of "computer selected comparables" that were located around and on Lake Red Rock similar to the subject property. The letter further states "the computer sales report makes adjustments as an independent appraiser would and it maintains equity in adjustments for assessment. It selected five properties." First, we would note that a computer is a tool and cannot independently select properties or independently analyze those properties. Secondly, we note the adjustments made were not similar to that of an independent appraiser, as they were based on cost rather than market. For instance, a \$1400 adjustment was made to one of the comparables for differences in garage size. The subject's two-car attached garage is 672 square feet, whereas the comparable had a two-car attached garage that is 588 square feet. It is unlikely market participants would pay \$1400 more-or-less for an 84 square-foot difference when functionally they offer the same amenity.

The properties considered by the Board of Review were located at 102 25th Place, 1465 Lake Drive, 1312 163rd Place, 1301 163rd Place,² and 1638 Highway G44. The properties were all sales occurring between April and November 2010. The unadjusted sales prices ranged from \$175,000 to \$255,000. The computer analysis of each sale indicated an adjusted value range of \$216,082 to \$316,750, with a median adjusted value of \$240,589.

We note, based on a location map in the record, these sales are much closer to the subject property than the sales considered by Chiles. Additionally, these properties are more proximate to Lake Red Rock and Elk Rock State Park. However, we do find the analysis to be flawed by making cost adjustments rather than market adjustments. We find this cost adjusted analysis to be a hybrid of a cost approach and sales comparison approach to value and question whether it represents a market value analysis for the reasons previously noted.

We note that the property located 1301 163rd Place was presented both in the Board of Review's first analysis that it used to change the assessment, and again in the February 16 letter responding to Chiles' appraisal. However, the adjustments and conclusions for this same property are different.

When first analyzed for the Board of Review, this property had an adjusted value of \$248,783. However in the February 16 analysis, the property had an adjusted value of \$226,800. The analysis considered by the Board of Review indicates a downward \$13,312 adjustment for differences in the map factor compared to the subject. In the February 16 analysis, the same map factor difference was adjusted downward \$12,474. Additionally, the analysis considered by the Board of Review made a positive \$9090 adjustment to 1301 163rd Place for lacking a detached garage, but the February 16, analysis indicates this same property *does* feature a 1200 square-foot, detached garage and is adjusted

² This sale was also considered in Chiles' appraisal.

downward by \$11,845. Based on these inconsistencies and the lack of market oriented adjustments, we give both computer generated analyses limited consideration.

We do believe site value, in this situation particularly, has not been properly considered or explained by the appraiser. Nor does the Board of Review provide additional clarification. The burden, nevertheless, is with Steele. Because Chiles' report lacks explanation, it appears additional sales that are more proximate to the subject property also existed, and questions have been raised regarding the location/site appeal of the subject compared to the properties considered as comparable, we give the appraisal report limited consideration.

Based on the foregoing, we find the preponderance of evidence does not demonstrate the subject property is assessed for more than authorized by law.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value

established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).


In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Steele asserted his property is over-assessed based on a November 2010 appraisal. However, we find the appraisal to be lacking explanation and question the consideration given to the subject's location and proximity to Lake Red Rock and Elk Rock State Park. Additionally, we note the Board of Review pointed out sales that were more proximate to the subject property and occurred in the same time frame. We, therefore, find the reliability of the appraisal to be limited.

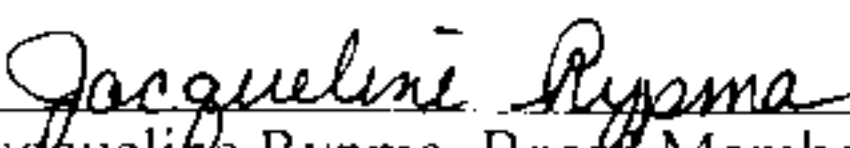
We therefore affirm the assessment Vernon Wayne Steele's property as determined by the Marion County Board of Review, as of January 1, 2011.

THE APPEAL BOARD ORDERS the assessment of Vernon Wayne Steele's property located at 892 126th Place, Knoxville, Iowa, of \$246,870, as of January 1, 2011, set by Marion County Board of Review, is affirmed.

Dated this 5 day of March, 2012.


Karen Oberman, Presiding Officer


Richard Stradley, Board Member


Jacqueline Rypma, Board Member

Cc:

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>3-5</u> , 2012	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u><i>Christopher R. Pose</i></u>